

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 234

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-21.5-2-5, AS AMENDED BY P.L.4-2005, SECTION 19, P.L.229-2005, SECTION 1, AND P.L.235-2005, SECTION 60, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. This article does not apply to the following agency actions:

- (1) The issuance of a warrant or jeopardy warrant for the collection of taxes.
- (2) A determination of probable cause or no probable cause by the civil rights commission.
- (3) A determination in a factfinding conference of the civil rights commission.
- (4) A personnel action, except review of a personnel action by the state employees appeals commission under IC 4-15-2 or a personnel action that is not covered by IC 4-15-2 but may be taken only for cause.
- (5) A resolution, directive, or other action of any agency that relates solely to the internal policy, organization, or procedure of that agency or another agency and is not a licensing or enforcement action. Actions to which this exemption applies include the statutory obligations of an agency to approve or ratify an action of another agency.
- (6) An agency action related to an offender within the jurisdiction

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of the department of correction.

(7) A decision of the Indiana economic development corporation, *the office of tourism development*, the department of environmental management, the tourist information and grant fund review committee **(before the repeal of the statute that created the tourist information and grant fund review committee)**, the Indiana ~~development~~ finance authority, the corporation for innovation development, or the lieutenant governor that concerns a grant, loan, bond, tax incentive, or financial guarantee.

(8) A decision to issue or not issue a complaint, summons, or similar accusation.

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke ~~the~~ a driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11 concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

(17) A determination of status as a member of or participant in an environmental performance based program developed and implemented under IC 13-27-8.

SECTION 2. IC 4-22-2-28.1, AS ADDED BY P.L.239-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 28.1. (a) This section applies to **the following**:

(1) A rule for which the notice required by section 23 of this

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chapter is published by an agency after June 30, 2005.

(2) A rule for which:

(A) the notice required by IC 13-14-9-3; or

(B) an appropriate later notice for circumstances described in subsection (g);

is published by the department of environmental management after June 30, 2006.

(b) As used in this section, "coordinator" refers to the small business regulatory coordinator assigned to a rule by an agency under subsection (e).

(c) As used in this section, "director" refers to the director or other administrative head of an agency.

(d) As used in this section, "small business" means any person, firm, corporation, limited liability company, partnership, or association that:

(1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;

(2) is independently owned and operated;

(3) employs not more than one hundred (100) full-time employees; and

(4) has gross annual receipts of not more than five million dollars (\$5,000,000).

(e) For each:

(1) rulemaking action; and

(2) rule finally adopted as a result of a rulemaking action;

by an agency under this chapter, the agency shall assign one (1) staff person to serve as the agency's small business regulatory coordinator with respect to the proposed or adopted rule. The agency shall assign a staff person to a rule under this subsection based on the person's knowledge of, or experience with, the subject matter of the rule. A staff person may serve as the coordinator for more than one (1) rule proposed or adopted by the agency if the person is qualified by knowledge or experience with respect to each rule. Subject to subsection (f), in the case of a proposed rule, the agency's notice of intent to adopt the rule under section 23 of this chapter must include the name, address, telephone number, and electronic mail address of the small business coordinator for the proposed rule. Subject to subsection (f), in the case of a rule finally adopted by the agency, the final rule, as published in the Indiana Register and the Indiana Administrative Code, must include the name, address, telephone number, and electronic mail address of the coordinator.

(f) This subsection applies to a rule adopted by the department of environmental management or any of the boards (as defined in

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IC 13-11-2-18) under IC 13-14-9. ~~In addition to the information required under subsection (e);~~ **Subject to subsection (g),** the department ~~or the board~~ shall include in the notice provided under ~~section 23 of this chapter~~ **IC 13-14-9-3** and in the publication of the final rule in the Indiana Register and the Indiana Administrative Code:

- (1) a statement of the resources available to regulated entities through the technical and compliance assistance program established under IC 13-28-3;
- (2) the name, address, telephone number, and electronic mail address of the ombudsman designated under IC 13-28-3-2; ~~and~~
- (3) if applicable, a statement of:
 - (A) the resources available to small businesses through the small business stationary source technical assistance program established under IC 13-28-5; and
 - (B) the name, address, telephone number, and electronic mail address of the ombudsman for small business designated under IC 13-28-5-2(3); ~~and~~

(4) the information required by subsection (e).

The coordinator assigned to the rule under subsection (e) shall work with the ombudsman described in subdivision (2) and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under subsection ~~(g)~~ **(h)** and IC 13-28-3. If applicable, the coordinator assigned to the rule under subsection (e) shall work with the ombudsman referred to in subdivision (3)(B) to coordinate the provision of services required under subsection ~~(g)~~ **(h)** and IC 13-28-5.

(g) If the notice provided under IC 13-14-9-3 is not published as allowed by IC 13-14-9-7, the department of environmental management shall publish in the notice provided under IC 13-14-9-4 the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the department of environmental management shall publish in the commissioner's written findings under IC 13-14-9-8(b) the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3.

~~(g)~~ **(h)** The coordinator assigned to a rule under subsection (e) shall serve as a liaison between the agency and any small business subject to regulation under the rule. The coordinator shall provide guidance to small businesses affected by the rule on the following:

- (1) Any requirements imposed by the rule, including any

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reporting, record keeping, or accounting requirements.

(2) How the agency determines or measures compliance with the rule, including any deadlines for action by regulated entities.

(3) Any penalties, sanctions, or fines imposed for noncompliance with the rule.

(4) Any other concerns of small businesses with respect to the rule, including the agency's application or enforcement of the rule in particular situations. However, in the case of a rule adopted under IC 13-14-9, the coordinator assigned to the rule may refer a small business with concerns about the application or enforcement of the rule in a particular situation to the ombudsman designated under IC 13-28-3-2 or, if applicable, under IC 13-28-5-2(3).

~~(h)~~ **(i)** The coordinator assigned to a rule under subsection (e) shall provide guidance under this section in response to questions and concerns expressed by small businesses affected by the rule. The coordinator may also issue general guidelines or informational pamphlets to assist small businesses in complying with the rule. Any guidelines or informational pamphlets issued under this subsection shall be made available:

(1) for public inspection and copying at the offices of the agency under IC 5-14-3; and

(2) electronically through electronic gateway access.

~~(i)~~ **(j)** The coordinator assigned to a rule under subsection (e) shall keep a record of all comments, questions, and complaints received from small businesses with respect to the rule. The coordinator shall deliver the record, along with any accompanying documents submitted by small businesses, to the director:

(1) not later than ten (10) days after the date on which the rule is file stamped by the secretary of state under section 35 of this chapter; and

(2) before July 15 of each year during which the rule remains in effect.

The coordinator and the director shall keep confidential any information concerning a small business to the extent that the information is exempt from public disclosure under IC 5-14-3-4.

~~(j)~~ **(k)** Not later than November 1 of each year, the director shall:

(1) compile the records received from all of the agency's coordinators under subsection ~~(i)~~; **(j)**;

(2) prepare a report that sets forth:

(A) the number of comments, complaints, and questions received by the agency from small businesses during the most

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recent state fiscal year, categorized by the subject matter of the rules involved;

(B) the number of complaints or questions reported under clause (A) that were resolved to the satisfaction of the agency and the small businesses involved;

(C) the total number of staff serving as coordinators under this section during the most recent state fiscal year;

(D) the agency's costs in complying with this section during the most recent state fiscal year; and

(E) the projected budget required by the agency to comply with this section during the current state fiscal year; and

(3) deliver the report to the legislative council in an electronic format under IC 5-14-6 and to the Indiana economic development corporation established by IC 5-28-3.

SECTION 3. IC 13-11-2-31.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31.4. "Combined sewer", for purposes of sections 31.3, 31.6, and 120.5 of this chapter, **IC 13-14-9-14**, and IC 13-18, means a sewer that is designed, constructed, and used to receive and transport combined sewage.

SECTION 4. IC 13-11-2-71 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 71. "Environmental management laws" refers to the following:

- (1) IC 13-12-2 and IC 13-12-3.
- (2) IC 13-13.
- (3) IC 13-14.
- (4) IC 13-15.
- (5) IC 13-16.
- (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
- (7) IC 13-18-12 and IC 13-18-15 through IC 13-18-20.
- (8) IC 13-19-1 and IC 13-19-4.
- (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15, and IC 13-20-19 through IC 13-20-21.
- (10) IC 13-22.
- (11) IC 13-23.
- (12) IC 13-24.
- (13) IC 13-25-1 through IC 13-25-5.
- (14) IC 13-27-8.**
- ~~(14)~~ **(15)** IC 13-30, except IC 13-30-1.

SECTION 5. IC 13-11-2-120.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 120.5. "Long term control plan", for purposes of section 31.5 of this chapter, **IC 13-14-9-14**, and IC 13-18, means a plan that:

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- (1) is consistent with the federal Combined Sewer Overflow Control Policy (59 Fed. Reg. 18688);
- (2) is developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002);
- (3) describes changes and improvements to be made to a combined sewer system or to a publicly owned wastewater treatment plant for the purpose of meeting the requirements of the federal Clean Water Act and state law;
- (4) is developed with public participation using a process that is designed to promote active involvement by the affected public, through opportunities to provide in the decision making to select long term control alternatives:
 - (A) information;
 - (B) opinions; and
 - (C) comments;
- (5) is submitted to the department for approval; and
- (6) does the following:
 - (A) Uses characterization, monitoring, and modeling of the combined sewer system to determine:
 - (i) the response of the combined sewer system to various precipitation events;
 - (ii) the characteristics of overflows from the combined sewer system; and
 - (iii) the water quality impacts that result from overflows from the combined sewer system.
 - (B) Considers the impact of combined sewer overflows on sensitive areas and gives highest priority to controlling overflows in those areas.
 - (C) Contains an evaluation of a reasonable range of control alternatives, taking into account expected and projected future growth.
 - (D) Contains cost and performance analyses of the control alternatives evaluated.
 - (E) Maximizes treatment of wet weather flows at a publicly owned treatment works (POTW) treatment plant.
 - (F) Contains a practicable implementation schedule for the selected control alternative.
 - (G) Contains a post-construction compliance monitoring program adequate to ascertain:
 - (i) the effectiveness of the selected control alternative; and
 - (ii) the extent to which water quality standards have been

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attained.

SECTION 6. IC 13-11-2-242.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 242.5. "Use attainability analysis", for purposes of **IC 13-14-9-14** and IC 13-18, refers to a structured scientific assessment of the physical, chemical, biological, and economic factors affecting the attainment of a designated use as provided in 40 CFR 131.3(g).

SECTION 7. IC 13-14-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) **Except as provided in section 14 of this chapter**, this chapter applies to the following:

(1) A board.

(2) The underground storage tank financial assurance board established by IC 13-23-11-1.

(b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a board may not adopt a rule except in accordance with this chapter.

SECTION 8. IC 13-14-9-3, AS AMENDED BY P.L.2-2005, SECTION 54, AND AS AMENDED BY P.L.215-2005, SECTION 16, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Except as provided in subsection (b), the department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Identify the authority under which the proposed rule is to be adopted.

(2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must:

(A) ~~include a listing of~~ **list** all alternatives being considered by the department at the time of the notice; ~~and must~~

(B) ~~include: (i) a statement indicating state whether each alternative listed under clause (A) is creates:~~

(i) a restriction or requirement more stringent than a restriction or requirement imposed under federal law; or
(ii) a restriction or requirement in a subject area in which federal law does not impose restrictions or requirements;

~~(ii) a statement explaining how~~ **(C) state the extent to which each alternative listed under clause (A) that is not imposed under federal law differs from federal law; and**

~~(iii) (D) include~~ **any information known to the department about the potential fiscal impact of each alternative under clause (A) that is not creates:**

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- (i) a restriction or requirement more stringent than a restriction or requirement imposed under federal law; or
- (ii) a restriction or requirement in a subject area in which federal law does not impose restrictions or requirements; and

~~(C)~~ (E) set forth the basis for each alternative listed under clause (A).

(3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.

(4) Request the submission of alternative ways to achieve the purpose of the proposed rule.

(5) Request the submission of comments, including suggestions of specific language for the proposed rule.

(6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.

(b) This section does not apply to rules adopted under IC 13-18-22-2, IC 13-18-22-3, or IC 13-18-22-4.

(c) *The notice required under subsection (a) shall be published electronically in the Indiana Register under procedures established by the publisher.*

SECTION 9. IC 13-14-9-4, AS AMENDED BY P.L.215-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The department shall provide notice in the Indiana Register of the second public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Contain the full text of the proposed rule, ~~as provided to the extent required~~ under IC 4-22-2-24(c).

(2) Contain a summary of the response of the department to written comments submitted under section 3 of this chapter during the first public comment period.

(3) Request the submission of comments, including suggestions of specific amendments to the language contained in the proposed rule.

(4) Contain the full text of the commissioner's written findings under section 7 of this chapter, if applicable.

(5) Identify each element of the proposed rule that imposes a restriction or requirement on persons to whom the proposed rule applies that:

- (A) is ~~not~~ more stringent than a restriction or requirement imposed under federal law; or

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(B) applies in a subject area in which federal law does not impose a restriction or requirement.

(6) With respect to each element identified under subdivision (5), identify:

(A) the environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement to protect human health and the environment;

(B) examples in which federal law is inadequate to provide the protection referred to in clause (A); and

(C) the:

(i) estimated fiscal impact; and

(ii) expected benefits;

based on the extent to which the proposed rule ~~exceeds~~ **is more stringent than the restrictions or requirements of federal law, or on the creation of restrictions or requirements in a subject area in which federal law does not impose restrictions or requirements.**

(7) For any element of the proposed rule that imposes a restriction or requirement that is ~~not imposed under more stringent than a restriction or requirement imposed under federal law or that applies in a subject area in which federal law does not impose restrictions or requirements~~, describe the availability for public inspection of all materials relied upon by the department in the development of the proposed rule, including, if applicable:

(A) health criteria;

(B) analytical methods;

(C) treatment technology;

(D) economic impact data;

(E) environmental assessment data;

(F) analyses of methods to effectively implement the proposed rule; and

(G) other background data.

(b) The notice required under subsection (a) shall be published electronically in the Indiana Register under procedures established by the publisher.

SECTION 10. IC 13-14-9-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 14. (a) Sections 1 through 13 of this chapter do not apply to a rule adopted under this section.**

(b) The water pollution control board may use the procedures in this section to adopt a rule to establish new water quality standards for a community served by a combined sewer that has:

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- (1) an approved long term control plan; and
- (2) an approved use attainability analysis that supports the use of a CSO wet weather limited use subcategory established under IC 13-18-3-2.5.

(c) After the department approves the long term control plan and use attainability analysis, the department shall publish in the Indiana Register a notice of adoption of a proposed rule to establish a CSO wet weather limited use subcategory for the area defined by the approved use attainability analysis.

(d) The notice under subsection (c) must include the following:

- (1) Suggested rule language that amends the designated use to allow for a CSO wet weather limited use subcategory in accordance with IC 13-18-3-2.5.
- (2) A written comment period of at least thirty (30) days.
- (3) A notice of public hearing before the water pollution control board.

(e) The department shall include the following in the written materials to be considered by the water pollution control board at the public hearing referred to in subsection (d)(3):

- (1) The full text of the proposed rule as most recently prepared by the department.
- (2) Written responses of the department to written comments received during the comment period referred to in subsection (d)(2).
- (3) The letter prepared by the department approving the long term control plan and use attainability analysis.

(f) At the public hearing referred to in subsection (d)(3), the board may:

- (1) adopt the proposed rule to establish a new water quality standard amending the designated use to allow for a CSO wet weather limited use subcategory;
- (2) reject the proposed rule; or
- (3) determine to reconsider the proposed rule at a subsequent board meeting.

(g) The department shall submit a new water quality standard established in a rule adopted under subsection (f)(1) to the United States Environmental Protection Agency for approval.

SECTION 11. IC 13-27-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. Programs developed under this article are to be implemented based on voluntary participation by businesses. **Except as required in rules referred to in IC 13-27-8-3(b)(5),** businesses may not be required to comply with

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any program developed under this article.

SECTION 12. IC 13-27-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 8. Environmental Performance Based Programs

Sec. 1. The department:

(1) may, to encourage continuous and sustainable environmental progress through the development and use of an environmental management system, develop and implement an environmental performance based program that:

(A) is consistent with the policies of this article; and

(B) is based on the national environmental performance track program developed by the United States Environmental Protection Agency; and

(2) may develop and implement other environmental performance based programs, including programs that promote any of the following:

(A) Pollution prevention.

(B) Waste minimization.

(C) Environmental management systems.

(D) Advanced environmental compliance.

Sec. 2. A person may not be required to participate in a program developed and implemented under section 1 of this chapter.

Sec. 3. (a) The following may adopt rules to implement this chapter to the extent consistent with federal law:

(1) The boards.

(2) The underground storage tank financial assurance board established by IC 13-23-11-1.

(b) The rules adopted by the entities under subsection (a) may establish the following:

(1) Eligibility requirements for participation in environmental performance based programs.

(2) Compliance methods and schedules that:

(A) differ from compliance methods and schedules that apply to nonparticipants in environmental performance based programs under rules adopted by the boards;

(B) apply only to participants in environmental performance based programs; and

(C) include any of the following:

(i) Changes to monitoring and reporting requirements

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and schedules.

(ii) Streamlined submission requirements for permit renewals.

(iii) Prioritized applications.

(iv) Authorization to make without prior governmental approval certain operational changes that do not result in additional environmental impact.

(3) Recognition incentives to encourage participation in environmental performance based programs.

(4) Other incentives consistent with the policies of this title and federal law to encourage participation in environmental performance based programs.

(5) Requirements for participants in environmental performance based programs to implement any of the following:

(A) Continuous improvement environmental systems.

(B) Pollution prevention and waste minimization programs developed under IC 13-27-7.

SECTION 13. P.L.231-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: SECTION 4. (a) As used in this SECTION, "board" refers to the water pollution control board established by IC 13-18-1.

(b) All waters designated under 327 IAC 2-1.5-19(b) as outstanding state resource waters shall be maintained and protected in their present quality in accordance with the antidegradation implementation procedures for the outstanding state resource waters established by the board for waters in the Great Lakes system. ~~This SECTION does not affect~~ **Nothing except IC 13-18-3-2 affects** the authority of the board to amend 327 IAC 5-2-11.7. Any rule adopted by the board contrary to this standard is void.

(c) All waters designated as outstanding state resource waters under 327 IAC 2-1-2(3) and waters designated as exceptional use waters under 327 IAC 2-1-6(i) shall be maintained and protected in accordance with 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2). If a permittee seeks a new or increased discharge for which a new or increased permit limit is required and that amounts to a significant lowering of water quality, the permittee shall demonstrate an overall improvement in water quality in the outstanding state resource water or exceptional use water, subject to:

(1) the approval of the department of environmental management; and

(2) IC 13-18-3-2(m)(2)(A) and IC 13-18-3-2(m)(2)(B).

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(d) Any rule adopted by the board before ~~the effective date of this SECTION July 1, 2006~~, is void to the extent that it:

- (1) is inconsistent with this SECTION; or
- (2) requires protection of waters beyond the protection required by 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2).

(e) Before July 1, ~~2004~~, **2008**, the board shall amend 327 IAC 2-1-2, 327 IAC 2-1-6, and 327 IAC 2-1.5-4 to reflect this SECTION.

(f) This SECTION expires on the earlier of:

- (1) the effective date of the rule amendments adopted by the board under subsection (e); or
- (2) July 1, ~~2006~~, **2008**.

SECTION 14. P.L.231-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: SECTION 5. (a) Until July 1, ~~2004~~, **2008**, the following apply to a water body designated before October 1, 2002, as an exceptional use water:

- (1) The water body is subject to the overall water quality improvement provisions of IC 13-18-3-2(1).
- (2) The water body is not subject to a standard of having its water quality maintained and protected without degradation consistent with the provisions of P.L.140-2000.

(b) Before July 1, ~~2004~~, **2008**, the water pollution control board established under IC 13-18-1 shall:

- (1) determine whether, effective July 1, ~~2004~~, **2008**, to designate as an outstanding state water each water designated before October 1, 2002, as an exceptional use water under 327 IAC 2-1-11; and
- (2) complete rulemaking to make any designation determined under subdivision (1).

(c) This SECTION expires July 1, ~~2006~~, **2008**.

SECTION 15. [EFFECTIVE JULY 1, 2006] **IC 13-14-9-3 and IC 13-14-9-4, both as amended by this act, apply only to proposed rules for which the department of environmental management provides notice under IC 13-14-9-3, as amended by this act, after June 30, 2006.**

SECTION 16. [EFFECTIVE UPON PASSAGE] (a) **The environmental quality service council established under IC 13-13-7 shall study and make findings and recommendations concerning the positive and negative aspects of enacting legislation that would prohibit rules adopted under IC 13 from being more stringent than corresponding provisions of federal law.**

(b) **The environmental quality service council shall include its findings and recommendations developed under subsection (a) in**

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the environmental quality service council's 2006 final report to the legislative council.

(c) This SECTION expires January 1, 2007.

SECTION 17. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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